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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,412

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Stephan Wolff

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EXAMINER

HUYNH, LOUIS K

ART UNIT

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3721

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,412	<b>Applicant(s)</b> WOLFF ET AL.	
	<b>Examiner</b> Louis K. Huynh	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-12 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-12 and 16-24 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 4, line 3: “each means for flattening” lacks proper antecedent basis.  
Perhaps, claim 4 should depend on claim 3.
- Claim 4, lines 3-4: “the direction of the tow guideways” lacks proper antecedent basis.
- Claim 4, line 5: “each means for treating” lacks proper antecedent basis. Perhaps, claim 4 should depend on claim 3.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 & 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Greiner et al. (US 5,460,590).

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- With respect to claim 1, Greiner discloses a device for processing filter tow material that meets all of applicant's claimed subject matter; in particular, the device of Greiner comprises: a delivery means (7) for supplying two filter tow strips (6.1 & 6.2), and two tow guideways each separately guiding one of the two filter tow strips (6.1 or 6.2), wherein each of the tow guideways is assigned a separately controlled processing apparatus comprising a roller pair (4.1 or 4.2), wherein the roller pairs (4.1 & 4.2) are arranged coaxial, side-by-side and coupled as a single unit.
- With respect to claim 2, the filter tow strips are work pieces, thus the different filter tow material being supplied to each tow guideway is not patentably distinguish the claimed device over the applied prior art because each guideway is fully capable of guiding a different type of filter tow strip.
- With respect to claim 3, each of the processing apparatus in the device of Greiner further comprises means for flattening the filter tow strip (8) and means for treating the filter tow strip (13).
- With respect to claim 4, as best understood, the means for flatten (8) is a single unit arranged transversely with respect to the direction of the guideway, and the means for treating (spray box 14) is also a single unit arranged transversely with respect to the direction of the guideway.
- With respect to claim 5, each of the roller pairs is driven by an associated drive means (60).

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- With respect to claim 16, Greiner discloses a device for processing filter tow material that meets all of applicant's claimed subject matter; in particular, the device of Greiner comprises: a delivery means (7) for supplying two filter tow strips (6.1 & 6.2), and two tow guideways each separately guiding one of the two filter tow strips (6.1 or 6.2), and a removal device comprising a drum (33) disposed at an end of the each tow guideway, wherein each of the tow guideways is assigned a separately controlled processing apparatus (4.1 or 4.2).
- With respect to claim 17, Greiner discloses a device for processing filter tow material that meets all of applicant's claimed subject matter; in particular, the device of Greiner comprises: a delivery means (7) for supplying two filter tow strips (6.1 & 6.2), and two tow guideways each separately guiding one of the two filter tow strips (6.1 or 6.2), a wrapping apparatus (26), an adhesive applicator (22), wherein each of the tow guideways is assigned a separately controlled processing apparatus (4.1 or 4.2). Note that the type of adhesive being used is a work material which does not patentably distinguish the claimed adhesive applicator over the adhesive applicator of the applied prior art.
- With respect to claim 18, the type of adhesive being used is a work material which does not patentably distinguish the claimed device over the device of the applied prior art.
- With respect to claim 19, the device of Greiner is for producing filters for rod-shaped smoking articles such as cigarettes (abstract).

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- With respect to claims 20 & 21, Greiner discloses a device for processing filter tow material that meets all of applicant's claimed subject matter; in particular, the device of Greiner comprises: a delivery means (7) for supplying two filter tow strips (6.1 & 6.2), and two tow guideways each separately guiding one of the two filter tow strips (6.1 or 6.2), a shaping device including dual intake funnels (19) which comprises deflection means for deflecting each filter tow strips onto a separate formatting band (24), wherein each of the tow guideways is assigned a separately controlled processing apparatus (4.1 or 4.2).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greiner et al. (US 5,460,590) in view of Pehmoller et al. (US 7,261,681).

- With respect to claim 9, Greiner discloses a device for processing filter tow material comprising: a delivery means (7) for supplying two filter tow strips (6.1 & 6.2), two tow guideways each separately guiding one of the two filter tow strips (6.1 or 6.2), a plurality of processing apparatus comprising: means for flattening (8) the filter tow strips, means for drawing (12) the filter tow strips, means for treating the filter tow strips (14), wherein the means for treating comprises a spray

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box (14) extends across the guideways. The device of Greiner meets all of applicant's claimed subject matter except for the spray box comprising discharge openings in a wall facing the tow guideway, a first wall between the tow guideways and a second wall between the filter tow strips and the openings.

Pehmoller discloses an apparatus for supplying additive to a web of filter material comprising a plurality of discharge opening (4) and a wall (7) disposed between the opening and the web of filter material (2). Greiner is silent as to the structure of the spray box (14); however, it is understood to a skilled person in the art that any known device for supplying additive to a web of filter material can be utilized in the device of Greiner; therefore it would have been obvious to a skill person in the art, at the time of the invention, to have utilized the apparatus of Pehmoller for supplying additive in order to treat the filter tow strips. Regarding the limitation of a first separating wall being arranged between the tow guideways, it would have been obvious to a skilled person in the art, at the time of the invention was made, as a matter of engineering designed choice since the spray box would work equally well with or without such a separating wall because each of the filter tow strips is guided on a separate guideway.

- With respect to claim 10, the wall (7) disposed between the filter tow strips and the discharge opening (4) in the modified device of Greiner is movable to alter a cross section of each of the discharge openings (4).

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- With respect to claim 11, the spray box in the modified device of Greiner is operated under pressure in order to spray additive through the plurality of discharge openings (4).
- With respect to claim 12, the spray box (14) of Greiner includes a brush for spraying additive (FIG. 3).

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greiner et al. (US 5,460,590).

With respect to claim 22, the device of Greiner meets all of applicant's claimed subject matter except for the dual intake funnels being mounted to a joint holder suspended from a parallelogram frame. However, providing a frame for holding a working apparatus is well within the ability of a skilled person in the art, and thus is an obvious matter to the skilled person in the art, at the time of the invention was made, to have provided a frame for holding the dual intake funnels.

8. Claims 23 & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greiner et al. (US 5,460,590) in view of AAPA (Applicant Admitted Prior Art).

With respect to claims 23 & 24, Greiner discloses a device for processing filter tow material comprising: a delivery means (7) for supplying two filter tow strips (6.1 & 6.2), and two tow guideways each separately guiding one of the two filter tow strips (6.1 or 6.2), wherein each of the tow guideways is assigned a separately controlled processing apparatus comprising a roller pair (12) having an upper



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roller (12.1) and a lower roller (12.2) with a large diameter than the diameter of the upper roller, a braking roller pair (4.1 or 4.2), and an adjustment element (60) for adjusting one of the braking roller (4.11 or 4.21) in a direction transverse to a rotational axis of the braking roller pair. The device of Greiner meets all of applicant's claimed subject matter except for a control element adapted to adjust the lower roller (12.2) in a direction transverse to a rotational axis of the lower roller in order to control a contact pressure of the lower roller against the upper roller. AAPA teaches at paragraph 00037 that in general, the larger rollers are not provided with a drive, but can be adjusted separately in transverse direction, relative to their axis of rotation, with the aid of control elements that are not shown. It is clear that control elements for adjusting contact pressure between drawing rollers is old and well known in the art. Therefore, it would have been obvious to a skilled person in the art, at the time of the invention was made, to have provided the control elements, as known in the art and taught by AAPA, in order to adjust contact pressure between the upper and the lower rollers.

### ***Response to Arguments***

9. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

*Allowable Subject Matter*

10. Claims 7 & 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 9:00AM to 4:00PM.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 27, 2010

/Louis K. Huynh/  
Primary Examiner  
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